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PATENT

Docket No.: 016866-003810US

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On February 4, 2005

TOWNSEND and TOWNSEND and CREW LLP

By: [Signature]

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

YIP *et al.*

Application No.: 10/088,970

Filed: March 25, 2002

For: PROSTATE CANCER MARKER
PROTEINS

Examiner: Fetterolf, Brandon J

Art Unit: 1642

Confirmation No. 6649

COMMUNICATION RESPONSIVE TO A
RESTRICTION REQUIREMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This Communication is responsive to an Office Action mailed on November 17, 2004 requesting an election of claims and species. A Request for a two-month extension of time in which to respond has been filed with this Communication. The due date is now February 17, 2005.

No additional fees are thought owed. However, if additional fees are required, the Commissioner is authorized to deduct such fees from the undersigned's Deposit Account No. 20-1430. Please deduct any additional fees from or credit any overpayment to the above noted Deposit Account.

Applicants elect group 1, claims 1-17 and 19-23. Applicants further elect as a species, "seminal basic protein" as recited in claim 3 and as defined in the specification at page 8. Group 1 claims readable on this species are: claims 1-4, 6-17 and 19-23. All the nonelected claims embrace the species of claim 3 with the exception of claims 43 and 55.

Reconsideration of the restriction is requested. The Examiner finds that the prior art of Zetter *et al.*, U.S. Pat. No. 5,858,681, describes a low molecular weight marker for diagnosing prostate cancer. Based on the Zetter patent, the Examiner concludes that the pending claims no longer have a single general inventive concept linking them as a single invention. However applicants' claims are directed to markers of less than 27,000 daltons and that are differentially present in samples of a prostate cancer patient and a patient with benign hyperplasia. The Zetter patent does not disclose this latter limitation.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at the telephone and facsimile numbers provided below.

Respectfully submitted,



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Reg. No. 31,677

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